

REMARKS

Claims 1-7 are pending in the application.

Claims 1-7 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Yamamoto, WO 01/16219 and U.S. Patent No. 6,559,195 ((WO 01/16219 is the PCT Publication Number that corresponds to U.S. Patent No. 6,559,195).

Yamamoto teaches a process of producing porous films comprising the steps of melt kneading a composition comprising a polyolefin resin, a thermoplastic elastomer and a solvent; extruding and cooling the melt kneaded material into a sheet molding; rolling the sheet molding; and stretching and desolvating the rolled sheet molding (col. 4, line 58 to col. 5, line 56).

Yamamoto fails to teach that the rolling is carried out under a condition such that the sheet molding after rolling has an elastic recovery rate as calculated by equation (1) in Applicants' claims.

The Examiner asserts that the claimed elastic recovery rate would be inherent in the disclosure of Yamamoto because Yamamoto discloses measuring a shrinkage ratio, (R), where (R) is calculated using the equation $(R) = 100 * (P0 - P1)/P0$ wherein P0 is the number of picture elements before shrinkage and P1 is the number of picture elements after shrinkage (col. 8, line 59 to col. 9, line 8). The Examiner asserts that because Yamamoto discloses that the shrinkage rate is 9% to 10% (col. 12, Table 1), that the claimed elastic recovery rate would be inherent in the porous films disclosed in Yamamoto.

Applicants respectfully traverse the Examiner's rejection for the following reasons.

The Examiner has asserted that the “elastic recovery rate” would be inherent in the disclosure of Yamamoto because Yamamoto discloses measuring a “shrinkage ratio.” However, Applicants submit that “shrinkage rate” disclosed in Yamamoto is not directly related to “elastic recovery rate” as claimed in the present invention. Accordingly, Applicants submit that Yamamoto does not inherently disclose the claimed elastic recovery rate.

With respect to claim 2, the Examiner asserts that Yamamoto teaches pressing until the desired thickness is achieved. Therefore, the Examiner asserts that time is a result-effective variable which can be optimized in order to achieve the desired thickness.

A particular parameter must first be recognized as a result-effective variable before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. Applicants submit that “time” in claim 2 is not a result-effective variable.

As shown in Example 3 and Comparative Example 2, both having the time of 1 minute, in the present specification, even if the target thickness of the resulted sheets are different, the times could be set as the same. That is, the time cannot simply be optimized based on a target thickness. Additionally, Applicants submit that the comparison between Example 3 and Comparative Example 2 in needle penetration strength exhibits unexpected results. Therefore, the variable “k” is not a result-effective variable.

With respect to claims 3 and 4, the Examiner acknowledges that Yamamoto does not disclose a pressure roller type double belt pressing machine. First, the Examiner asserts that the pressure roller type double belt pressing machine does not materially effect the claimed process.

Applicants respectfully traverse the Examiner's assertion as the Examiner is using the standard for patentability of product-by-process claims not process claims as in the present application.

The Examiner also asserts that it would be obvious to use the pressure roller type double belt pressing machine. As stated above, Yamamoto does not disclose a pressure roller type double belt pressing machine. Additionally, Applicants submit that the pressure roller type double belt pressing machine (i.e., Example 1 in the specification) provides unexpectedly superior results as compared with a roll pressing machine (i.e., Comparative Examples A-O as provided in the Declaration under 37 C.F.R. § 1.132 executed by Shinichi Ooizumi, which is attached herewith).

Based on the § 132 Declaration, it is apparent that when using a roll pressing machine, the elasticity recovery rate of 20 % or less could not be achieved, even when the sheet moldings as used in Example 1 in the specification were used.

With respect to claim 5, Yamamoto teaches heat pressing at a temperature of 115°C (Example 1, col. 9, lines 29-30). Applicants' claim heat rolling at a temperature between 30°C and 10°C. Therefore, the heat pressing disclosed in Yamamoto is outside Applicants claimed range.

For the reasons above, Applicants submit that claims 1-7 would not be obvious over Yamamoto, WO 01/16219 and U.S. Patent No. 6,559,195.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Appln. No.: 10/689,039
Response under 37 C.F.R. § 1.111

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

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Date: May 2, 2006